

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ZF MERITOR LLC and MERITOR
TRANSMISSION CORPORATION,

Plaintiffs,

v.

EATON CORPORATION

Defendants.

Civ. No. 06-623-SLR

ORDER

At Wilmington this 14th day of June 2008, the parties having satisfied their obligations under Fed. R. Civ. P. 26 (f), the court having conducted a pretrial scheduling conference pursuant to Fed. R. Civ. P. 16 and D. Del. LR 16.2(a) and (b), and the parties having agreed to the following revised schedule.

IT IS ORDERED that:

1. **Pre-Discovery Disclosures.** The parties have exchanged the information required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.2.

2. **Discovery.**

(a) Discovery will be needed on the following subjects: Plaintiffs' liability and damages claims and Defendant's defenses thereto, including any affirmative defenses.

(b) All fact discovery shall be commenced in time to be completed by January 16, 2009.

(1) Document productions shall be completed as follows: (i) for all Rule 26 custodians, document productions shall be completed by May 31, 2008,

except for Eaton custodians Messrs. McKeeby and Grimm, for whom production shall be completed by June 30, 2008; (ii) the production of all competitive equalization data and forms, policy data and Eaton sales and cost data shall be completed by June 6, 2008; (iii) for the parties' agreed upon supplemental custodians, production shall commence by July 15, 2008 and be completed by July 31, 2008, at which time Eaton shall also complete the production of any relevant O:drive and website records.

(2) Privilege logs shall be by completed as follows: for documents subject to the May 31, 2008 deadline, privilege logs shall be exchanged by June 20, 2008; for all other documents, privilege logs shall be exchanged by August 22, 2008.

(3) Maximum of 50 interrogatories by plaintiffs and 50 interrogatories by defendant.

(4) Maximum of 30 requests for admission by Plaintiffs and 30 requests by defendant (excepting requests for authentication of documents).

(5) Fact depositions may commence on August 8, 2008 and shall be completed by January 16, 2009.

(6) Maximum of 40 fact depositions by plaintiffs and 40 by defendant.

(7) Each fact deposition shall be limited to a maximum of 7 hours unless extended by agreement of the parties.

(8) All expert discovery shall be commenced in time to be completed by April 3, 2009.

(9) Reports from retained experts under Rule 26(a)(2) on issues for which the parties have the burden of proof due by February 16, 2009. Rebuttal expert reports due by March 16, 2009. Expert depositions shall be completed by April 3, 2009.

(c) **Discovery Disputes.**

(1) Any party seeking a discovery conference shall email the Court requesting a conference. **No motions to compel or motions for protective order shall be filed absent approval of the court.**

(a) The court shall remain available to resolve by telephone conference disputes that arise during the course of a deposition and disputes over the terms of a protective order.

(b) Absent express approval of the court following a discovery conference, no motions pursuant to Fed. R. Civ. P. 37 shall be filed.

(2) **Joinder of other Parties and Amendment of Pleadings.** All motions to join other parties and amend the pleadings shall be filed on or before August 15, 2007.

(3) **Settlement Conference.** Pursuant to 28 U.S.C. § 63 6, this matter is referred to a Magistrate Judge for the purposes of exploring ADR.

(4) **Summary Judgment Motions.** Before any summary judgment motion may be filed, the court will hold an in-person conference regarding the topics for summary judgment on April 14, 2009 at 4:30 p.m. All summary judgment motions shall be served and filed with an opening brief on May 4, 2009.

Opposition briefs shall be served and filed on June 4, 2009. Reply briefs shall be served and filed on June 18, 2009. Except with respect to the foregoing deadlines, all briefing shall be pursuant to D. Del. LR 7.1.2. No summary judgment motion may be filed more than ten (10) days from the above date without leave of the court.

(5) **Oral Argument.** Oral argument on all summary judgment motions shall be held on June 24, 2009 at ^{9:30}1 p.m. in courtroom 6B, Sixth floor Federal Building, 844 King Street, Wilmington, Delaware.


(6) **Applications by Motion.** Any application to the court shall be by written motion filed with the clerk. Unless otherwise requested by the court, counsel shall not deliver copies of papers or correspondence to chambers. **Any non-dispositive motion should contain the statement required by D. Del. LR 7.1.1.**

(7) **Motions in Limine.** No motions in limine shall be filed; instead the parties shall be prepared to address their evidentiary issues at the pretrial conference and during trial (before and after the trial day).

(8) **Pretrial Conference.** A pretrial conference will be held on August 27, 2009 at 4:30 p.m. in courtroom 6B, sixth floor Federal Building, 844 King Street, Wilmington, Delaware. The Federal Rules of Civil Procedure and D. Del. LR 16.4 shall govern the pretrial conference.

(9) **Trial.** This matter is scheduled for a 15-20 day jury trial commencing on September 8, 2009 in courtroom 6B, sixth floor Federal Building, 844 King Street, Wilmington, Delaware. For purposes of completing pretrial

preparations, the parties should plan on being allocated a total number of hours in which to present their respective cases.



United States District Judge